

Appl. No. : 10/654,068  
Filed : September 3, 2003

## REMARKS

Claims 1-20 are currently pending.

### Rejections Under 35 U.S.C. §103

Claims 1-20 are rejected under 35 U.S.C. §103(a) as being unpatentable over Hunter et al., U.S. Patent No. 6,151,446, in view of Savage et al., U.S. Patent No. 6,610,150. In the Final Office Action, the Examiner states that “Applicant’s argument that the prior art references do not show a substrate that is not in contact with any heated elements of the process chamber is not persuasive since that is a negative argument trying to define an invention not by what it is but by what it is not.” The Examiner also contends that this renders the claims indefinite and vague.

The MPEP explains that “[s]ome older cases were critical of negative limitations because they tended to define the invention in terms of what it was not, rather than pointing out the invention.” MPEP, §2173.05(i). However, Applicants respectfully submit that “[t]he current view of the courts is that there is nothing inherently ambiguous or uncertain about a negative limitation.” *Id.* Applicants submit that there is nothing indefinite about the pending claims, as the boundaries of the patent protection sought in the pending claims are clear and each recited limitation is definite. *See In re Barr*, 444 F.2d 588, 170 USPQ 330 (CCPA 1971); *In re Wakefield*, 422 F.2d 897, 899, 904, 164 USPQ 636, 638, 641 (CCPA 1970). Thus, the recitation of a substrate that is not in contact with any heated elements of the process chamber, as recited in independent Claims 1 and 10, does not render the claims indefinite or vague and there is nothing inherently ambiguous or uncertain about such a negative limitation.

The Examiner has not pointed to anything in either of the cited references that teaches or suggests preheating the substrate, wherein the substrate is not in contact with any heated elements of the process chamber while the substrate is preheated, as recited in Claims 1 and 10. As noted in the previously filed amendment, neither Hunter et al. nor Savage et al. teach or suggest preheating the substrate, wherein the substrate is not in contact with any heated elements of the process chamber while the substrate is preheated. Both Hunter et al. and Savage et al. disclose using lift pins to support a substrate during the preheat period. *See, e.g.*, Hunter et al., at Col. 3, line 63 – Col. 4, line 2 and Fig. 1A; Savage et al., at Col. 10, lines 52-62, Col. 15, lines 39-53. Thus, in both of the cited references, the lift pins, which are heated elements of the process chamber, are in contact with the substrate during the preheat period.

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Neither of the cited references provides any motivation or suggestion for preheating a substrate, wherein the substrate is not in contact with any heated elements of the process chamber while the substrate is preheated, as recited in Claims 1 and 10. Furthermore, neither reference teaches or suggests high temperature processing (*e.g.*, maintaining the substrate support at greater than 900° C or at the process temperature during the substrate preheat period). Claims 1 and 10 are therefore patentable over Savage et al. and Hunter et al. Claims 2 -9 and 11-20, which depend from and include all of the limitations of Claim 1 or Claim 10, are therefore also patentable over Savage et al. and Hunter et al. Furthermore, each of the dependent claims recites additional distinguishing features of particular utility.

### **Conclusion**


Applicants respectfully submit that all of the pending claims are patentably distinguishable over the prior art of record. None of the cited references, either alone or in combination, teaches or suggests Applicants' claimed invention.

Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

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Dated: 10/13/06

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